

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DENNIS L. WEAVER,	:	CIVIL ACTION NO. 1:06-CV-01768
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
	:	
JOHN PALAKOVICH, et al.,	:	
	:	
Respondents.	:	

MEMORANDUM

I. Background

Petitioner, Dennis L. Weaver, an inmate currently incarcerated at the State Correctional Institution-Smithfield (“SCI-Smithfield”) in Huntingdon, Pennsylvania, filed, *pro se*, this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) on September 11, 2006. In the petition, petitioner challenges the validity of his guilty plea entered on April 7, 1997, in the Court of Common Pleas of Perry County, Pennsylvania.

Respondents filed a response to petitioner’s habeas petition on February 8, 2007. (Doc. 24.) On June 8, 2007, petitioner filed a motion for an extension of time in which to file a traverse to the response to the habeas petition and/or motion to stay the proceedings. (Doc. 29.) The court granted the motion for an extension of time, permitting petitioner to file a reply to the response to the petition within fifteen (15) days of the date of the order, and denied the motion to stay the proceedings. (See Doc. 30.)

Presently before the court is another motion for an extension of time in which to file a traverse (Doc. 32), another motion to stay proceedings (Doc. 33), and a motion for appointment of counsel (Doc. 33), filed by petitioner. In the motion for an extension, petitioner requests an extension of 120 days in which to file his traverse “in order to see if [SCI-Smithfield] is going to transfer me from RHU AC status to another prison or if it [is] going to return me to population at this same prison.” (Doc. 32.) In the alternative, petitioner requests a stay of proceedings “until he is returned to prison population & is again provided with a legal assistant within the prison law library.” (Doc. 33.) In his motion for appointment of counsel, petitioner seeks counsel for the period of time in which he is not provided a legal assistant from the prison law library. (Doc. 33.)

II. Discussion

First, to the extent that petitioner seeks additional time in which to prepare a traverse, the court has already addressed petitioner’s requests in orders dated May 29, 2007 (Doc. 27) and June 12, 2007 (Doc. 30). In each order, the court allowed petitioner an additional fifteen (15) days from the date of the order in which to file a traverse, if he so desires. However, petitioner again seeks an extension due to his apparent inability to receive legal assistance. In the interests of justice to this *pro se* litigant, see Haines v. Kerner, 404 U.S. 519, 520-21 (1972), the court will grant petitioner a final extension of thirty (30) days in which to file a traverse, if he so desires. Absent compelling circumstances, the court will not entertain any further requests for an extension. Further, for the reasons set forth in the court’s order

dated June 12, 2007, the court will deny petitioner's motion for a stay of proceedings. (See Doc. 30.)

In addition, in consideration of petitioner's motion for appointment of counsel (Doc. 33), it appears from the habeas petition (Doc. 1), memorandum of law in support of the petition (Doc. 18), and motions (Docs. 9, 25, 29, 32, 33), filed by petitioner, that petitioner is capable of properly and forcefully prosecuting his claims with adequate factual investigation and appropriate citations to governing authority and that resolution of the facial merit of petitioner's claims neither implicates complex legal or factual issues nor requires investigation or the testimony of expert witnesses, see Tabron v. Grace, 6 F.3d 147, 155-57 (3d Cir. 1993) (listing factors relevant to request for counsel). As a result, the motion for appointment of counsel will be denied. In the event, however, that future proceedings demonstrate the need for counsel, the matter may be reconsidered either *sua sponte* or upon motion of petitioner.

An appropriate order will issue.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

Dated: July 10, 2007

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Petitioner	:	(Judge Conner)
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v.	:	
	:	
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JOHN PALAKOVICH, et al.,	:	
	:	
Respondents.	:	

ORDER

AND NOW, this 10th day of July, 2007, in accordance with the accompanying memorandum, it is hereby ORDERED that:

1. The motion for an extension of time (Doc. 32) is GRANTED. Petitioner shall be permitted to file a reply to the response to the petition on or before August 9, 2007.
2. The motion to stay proceedings (Doc. 33) is DENIED.
3. The motion for appointment of counsel (Doc. 33) is DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge